

1 Cabinet for Health and Family Services

2 Office of the Kentucky Health Benefit Exchange

3 (New Emergency Administrative Regulation)

4 900 KAR 10:050E. Agent participation with the Kentucky Health Benefit Exchange

5 RELATES TO: KRS 194A.050(1), 42 U.S.C. Section 18031, 45 C.F.R. Part 155 .

6 STATUTORY AUTHORITY: KRS 194A.050(1)

7 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family

8 Services, Office of the Kentucky Health Benefit Exchange, has responsibility to

9 administer the state-based American Health Benefit Exchange. KRS 194A.050(1)

10 requires the secretary of the cabinet to promulgate administrative regulations necessary

11 to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency

12 of the individual citizens of the Commonwealth; to operate the programs and fulfill the

13 responsibilities vested in the cabinet, and to implement programs mandated by federal

14 law or to qualify for the receipt of federal funds. This administrative regulation

15 establishes the policies and procedures Office of the Kentucky Health Benefit Exchange

16 relating to the registration of an agency or agent in accordance with 42 U.S.C. § 18031

17 and 45 C.F.R. Parts 155.

18 Section 1. Definitions.

19 (1) “Agent” is defined by KRS 304.9-020.

20 (2) “Certified application counselor” or “CAC” means an individual employed or

21 volunteer of an entity described in 45 C.F.R. 155.225(a) who meets the requirements of

section x of this section.

(3) “Department” or “DOI” is defined by KRS 304.1-050(2).

(4) In-Person Assister entity means an entity described in 45 CFR 155.205 selected by the Office of KHBE that meets the requirements of 900 KAR 10:xxx.

(5) “Issuer” is defined by 45 C.F.R. 144.103.

(6) “Insurance Affordability Program” means one of the following:

(a) A state Medicaid program under title XIX of the Act;

(b) A state children's health insurance program (CHIP) under title XXI of the Act;

(c) A state basic health program established under section 1331 of the Affordable Care Act;

(d) A program that makes coverage in a qualified health plan through the Exchange with advance payments of the premium tax credit established under section 36B of the Internal Revenue Code available to qualified individuals; or

(e) A program that makes available coverage in a qualified health plan through the Exchange with cost-sharing reductions established under section 1402 of the Affordable Care Act.

(7) “Kentucky Health Benefit Exchange” or “KHBE” means the Kentucky state-based exchange conditionally approved by HHS under standards set forth in 45 C.F.R. 155.105 to offer QHP’s on January 1, 2014.

(8) “Kentucky Insurance Code” means KRS Chapter 304 and associated administrative regulations.

(9) “Kentucky Online Gateway” means the system for authentication services for users requesting access to the KHBE portal.

(10) “KHBE training” means the training established by the Office for agents and kynectors.

(11) “Kynectors” means CACs, In-person assisters or Navigators.

(12) “Navigator entity” means an entity as described in 45 C.F.R. 155.210 selected by the Office of KHBE who meets the requirements of section 900 KAR 10:0Xx.

(13) “Office of the Kentucky Health Benefit Exchange” or “Office” means the office created under Executive Order 2012-587.

(14) “Participating Agent” means an agent described in 45 C.F.R. 155.220 that is licensed by the DOI with a health line of authority who has registered with the exchange in accordance with section 2 of the administrative regulation and has been approved by KHBE to participate as an agent on the KHBE.

(15) “Qualified Health Plan” and “QHP” means a health plan that has in effect a certification issued by the KHBE that it meets the standards described in 45 C.F.R. 156 Subpart C.

Section 2. Participating Agent.

(1) An agent wishing to be a participating agent shall:

(a) Be licensed by DOI by with a health line of authority;

(b) Complete the KHBE agent training provided by the Office or an approved provider.

(c) Sign an agent participation agreement;

(d) Comply with the privacy and security standards of 45 C.F.R. 155.260;

(e) 1. Maintain an appointment with each issuer participating on the KHBE; or

2. Maintain an appointment with at least two (2) QHP issuers participating on the

1 KHBE and obtain proof of good standing with any remaining issuers participating on the
2 KHBE;

3 (f) Register with the KHBE through the Kentucky Online Gateway.

4 (2) A business entity wishing to participate with the KHBE shall:

5 (a) Be a business entity licensed with the DOI

6 (b) Designate an individual agent to service as the participating agency
7 administrator who shall:

8 1. Register with KHBE through the Kentucky Online Gateway as an administrator
9 for the business entity;

10 2. Serve as a primary contact for the Office;

11 3. Sign an business entity participation agreement with the Office;

12 4. Be responsible for ensuring that only active Kentucky licensed agents designated
13 with the agency are provided access to the KHBE through the Kentucky Online
14 gateway.

15 (c) Designate the individual agents who will participate on the KHBE through the
16 participating business entity and who shall:

17 1. Complete the KHBE agent training provided by the Office or an approved party.

18 2. Sign an agent participation agreement;

19 3. Comply with the privacy and security standards of 45 C.F.R. 155.260; and

20 4. Register with the KHBE through the Kentucky Online Gateway; and

21 (d) 1. Maintain an appointment with each issuer participating on the KHBE; or

22 2. Maintain an appointment with at least two (2) issuers participating on the KHBE

23 and obtain proof of good standing with any remaining issuers participating on the KHBE.

(3) After compliance with subsection (1) or (2) of this section, a participating agent may:

(a) In accordance with the Kentucky insurance code, enroll individuals, employers or employees in any QHP in the individual or small group market as soon as the QHP is offered through the KHBE;

(b) Subject to subsections (4), and (5) of this section, enroll qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange; and

(c) Subject to Subsection (5) of this section, assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs.

(4) A qualified individual may be enrolled in a QHP through the KHBE with the assistance of an agent if the participating agent ensures the applicant's completion of an eligibility verification and enrollment application through the KHBE Web site as described in 42 C.F.R. 155.405;

(5) A participating agent that enrolls qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange or assists individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs must comply with the Kentucky insurance code related to agents, including applicable State law related to confidentiality and conflicts of interest.

(6)

(7) A participating agent shall:

(a) 1. Disclose to potential applicants any relationships the agent and agency has with QHPs, issuers, or insurance affordability programs, or other potential conflicts of interest identified by the KHBE;

2. Agree to act in the best interest of the applicants assisted; and
3. Inform applicants of the functions and responsibilities of Kynectors and participating agents;

(b) Not:

1. Impose any charge or fee on applicants for application assistance;
2. Provide compensation or a referral fee to a kynector; or
3. Enter into exclusive referral agreements with a kynector.

(8) After notice and an opportunity to respond in accordance with section four (4) , the Office shall withdraw an agent's registration and participation with the KHBE if it finds noncompliance with the terms and conditions of the agent participation agreement, KHBE policies and procedures (?), or an administrative regulation of the Office.

Section 3. Renewal of Participation and registration with the KHBE.

To maintain registration with the KHBE, a participating agent shall:

- (1) Complete annual training program proscribed by the Office.
- (2) Sign an agent participation agreement.

Section 4. Withdraw of Registration and Appeals.

(1) (a) Except as provided in Subsection (2), if the Office finds noncompliance with the terms and conditions of a participating agreement, KHBE policies and procedures, or an administrative regulation of the Office, the Office shall:

1. Provide the participating agency or the participating agent with notice that the applicable registration will be withdrawn as of the date on the notice;
2. Allow the participating agency or participating agent an opportunity to submit evidence of compliance or additional information.

1 3. Review any information submitted by the participating agency or participating
2 agent; and

3 4. Based on the information provided, issue a decision to withdraw or reinstate the
4 applicable registration of a participating agency or participating agent.

5 (b) A participating business entity or participating agent may appeal a decision to
6 withdraw registration in accordance with subparagraph (1) of this subsection to ?

7 (2) (a) If the health line of authority or licensure an agent or agency is suspended,
8 revoked, or has expired, the registration of individual or agency shall be withdrawn
9 immediately in connection with DOI's administrative action; and

10 (b) Any appeal of an action pursuant to subparagraph (a), shall be made to DOI in
11 accordance with the Kentucky Insurance Code.

12 (3) After one (1) year of a decision to withdraw the registration participating agency
13 or an agent, the individual or entity may reapply in accordance with section two (2) of
14 this administrative regulation.